

20 November 1953

MEMORANDUM FOR: MR HOUSTON

SUBJECT : Cost-of-living and Quarters Allowances - Previous
Memorandum to General Tax File dated 19 October 1953

1. With reference to my previous memorandum to the General Tax File (copy attached) regarding the taxable nature of foreign cost-of-living and quarters allowances, Mr. Swartz (Head Tax Rulings Branch, Operations, Internal Revenue Service) informed me today that he had reviewed the Hudson Ruling and learned from their counsel that the Service had, in fact, treated the quarters allowance as non-taxable in an earlier ruling. He agreed that the cost-of-living allowance for "other civilian employees" under 116(j) is generic and includes the "living-quarters allowance." However, he pointed out that the assumption was founded on the reference to the [REDACTED]

25X1A

[REDACTED] and would be restricted to employees of the Government receiving allowances in conformity with such regulations.

2. From our discussion, it appeared that there might be some doubt regarding the exclusion of cost-of-living, as well as quarters allowances, in the case of truly independent contractors. While it seems to me that the statement in most of the Agency contracts with independent agents that they are "not an employee of the U. S. Government" places them outside the category of a normal Government employee, it does not necessarily destroy what appears to be in essence a general employer-employee relationship. However, even if this position is acceptable, there would appear to be the additional requirement of compliance with the [REDACTED] (even ironically enough where the amounts are less than those normally prescribed). This matter should be explored and present practices reviewed to discover any inconsistencies with the final conclusion reached by this office with regard to contract agents. I will undertake the latter if you concur.

25X1A9A

[REDACTED]
Assistant General Counsel

Attachment